

When Recorded return to:

SAFG Retirement Services, Inc.
c/o AIG Global Investment Group
2800 North Central Ave.
Suite 2100
Phoenix, AZ 85004

FT 39005416

DEED NOTICE

Facility Name:

Lot 3 of Washington Park Corporate Center
4400 Block of East Washington Street
Phoenix, Arizona ("The Property")

This Deed Notice, when recorded, is a covenant that runs with the land and burdens the Property, binds all owners' heirs, and successors.

This Deed Notice is executed and recorded by:

SAFG Retirement Services, Inc.
c/o AIG Global Investment Group
1 SunAmerica Center
38th Floor
Los Angeles, CA 90067

Owner covenants and agrees as follows:

A. Presence of Contamination.

Environmental contaminants are present on a portion of the Southeast Half of Lot 3 of Washington Park Corporate Center, Phoenix, Arizona.

B. Warranty of Title.

Owner is the only owner of, and holds all equitable and legal title to, the Property and has the authority to execute and record this Deed Notice.

C. Legal Description.

Lot 3 of Washington Park Corporate Center, Phoenix, Arizona. This Deed Notice applies only to a portion of the Property herein referred as the Excavation Sensitive Area or as referred to in communication with the U.S. Environmental Protection Agency Region 9 (USEPA) as the "Trench Area". A legal description of the portion of the Property subject to the Deed Notice is attached and marked as Exhibit 1.

D. Maps.

The location of the Property and the portion of the Property subject to this Deed Notice is attached and marked as Exhibit 2.

E. Environmental Contaminant Information.

Polychlorinated Biphenyls (PCBs) impacted soils remain in an area of the site referred to as the Excavation Sensitive Area (Exhibit 1). This area was previously referred to as the "Trench Area" in letters from the USEPA dated: September 22, 2008; July 14, 2009; July 2, 2010; September 15, 2011; December 14, 2011; and December 19, 2011 (attached herein). The PCB concentrations range from 1.2 to 6.8 milligrams per kilogram (mg/kg) and the soils containing these concentrations are at depths ranging from 19 to 36.5 feet below current site grade (approximate site grade elevation is 1148 feet above mean sea level).

F. Engineering Control

Because the Owner is using an engineering control to prohibit contact with and migration of the remaining PCBs, the owner agrees to the following:

1. The engineering control in the Excavation Sensitive Area consists of a compacted clay soil cap (earthen CAP) beginning at an approximate Elevation 1142.8' and extending upward 4.5 feet (Elevation 1147.3'). This CAP is covered with 6-mil thick plastic sheeting followed by a 0.5 foot-thick soil cover material. Soil used to construct the CAP meets the requirements of 40 CFR 264.310(a) and 40 CFR 761.75(b)(1)(ii) through (b)(1)(v). That is, the soil has a permeability equal to or less than 1×10^{-7} cm/sec, has more than 30% passing the No. 200 sieve, a liquid limit greater than 30, and a plasticity index greater than 15. The purpose of this CAP is to limit exposure to PCB impacted soils.
2. The maintenance requirements for the engineering control are presented herein:

2.1 General

The Excavation Sensitive Area has an engineered earthen CAP at elevation 1147.3 feet above mean sea level. The CAP was constructed with clean soil or other materials that meet the requirements of 40 CFR 761.75(b)(1)(ii) through (b)(1)(v) and the USEPA Conditions of Approval of Cap Construction and Design specified in its letter dated July 2, 2010 (attached herein).

Any Owner of the Excavation Sensitive Area or any part thereof that will be conducting any development on or over the Excavation Sensitive Area, must notify all contractors of the existence and purpose of the earthen CAP. The CAP covers and prevents access to soils containing PCBs above 1mg/kg and below 10 mg/kg.

2.2 Maintenance of the Earthen CAP

The Property including the Excavation Sensitive Area is currently vacant, graded, undeveloped land with no structures or development and no occupants. While it remains undeveloped land, the Owner shall maintain the earthen CAP in its current condition. From time to time, but at least annually, the Owner shall conduct an inspection of the earthen CAP to observe if it has been altered in any way that would cause the CAP to not perform as intended (such as but not limited to: erosion, cracking, desiccation, disturbance, etc.). If the inspection reveals any indications that the CAP has been compromised, altered, or affected in any way that would affect its performance, the Owner must repair the CAP to its original condition. The repair to the CAP should be completed using clean soil or other materials that meet the requirements of 40 CFR 761.75(b)(1)(ii) through (b)(1)(v) and compacted to a minimum of 95 percent of the standard proctor density ASTM D698. Annually, the Owner will inspect the CAP and if a repair or alteration to the CAP is needed this should be conducted within 72 hours after discovery. Additionally, the owner shall submit a report describing the repairs or alterations to USEPA within 14 days after either completing any repairs or before implementing any alterations of the CAP.

2.3 Development on the CAP

In potential landscaped areas, a minimum 24-inch thickness of the CAP must be maintained at all times. All utility line cuts or landscaping activities through the CAP must be backfilled and compacted with clean soil or other materials that meet the requirements of 40 CFR 761.75(b)(1)(ii) through (b)(1)(v) and compacted to a minimum of 95 percent of the standard proctor density.

Any asphalt or concrete placed on the CAP will become a part of the CAP with respect to future maintenance and inspection of the CAP. Consistent with the requirements of 40 CFR 761.61(a)(7), portland cement or asphaltic concrete shall have a minimum thickness of 6 inches. If any foundations penetrate the CAP the footing and slab thickness shall have a minimum thickness of 6 inches and the footing will become a part of the CAP with respect to future maintenance of the CAP. Once and if pavement or foundations cover the surface of the Excavation Sensitive Area, the earthen cap is no longer designated the CAP and the pavement and/or foundations will become the final CAP. The final CAP shall be maintained and repaired in perpetuity. Pavements or foundations qualify as a CAP that functions with minimum maintenance per 40 CFR 264.310. The owner shall maintain the integrity and effectiveness of the final CAP including making repairs to the CAP as necessary to correct the effects of settling, subsidence, erosion or other events. If a footing becomes part of the CAP or the final CAP itself, the footing excavation must be backfilled with clean soil or other materials that meet the requirements of 40 CFR 761.75(b)(1)(ii) through (b)(1)(v) and compacted to a minimum of 95 percent of the standard proctor density.

3. Owner agrees to the specified maintenance requirements and to implement the procedures outlined in Section 2 of this document in perpetuity as required in 40 CFR 761.61 (a)(8) and USEPA's July 14, 2009 letter.
4. If any person desires to cancel or modify the engineering control in the future, the person shall obtain the USEPA's written approval within 45 days before modification of the engineering control. Any modification of the engineering control without the USEPA's written permission is a violation of this deed notice.
5. If any person desires to cancel the engineering control in the future, the person shall cancel the engineering control in accordance with all the requirements in 40 CFR 761.61(a)(8)(ii).

G. Additional Information

More detailed information on the remediation is maintained and available at following addresses:

Western Technologies Inc.
3737 East Broadway Road
Phoenix, Arizona 85040-2921

And

United States Environmental Protection Agency
Region 9
RCRA Corrective Action Office
Waste Management Division
Mail Code WST-5
75 Hawthorne Street
San Francisco, California 94105

SAFG Retirement Services, Inc.,
fka AIG Retirement Services, Inc.

By: 

Douglas S. Tymins
Authorized Agent

State of Arizona
County of Maricopa

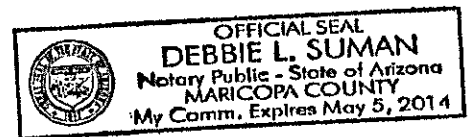
On June 22 2013 before me, Debbie L Suman,
(here insert name and title of the officer)
personally appeared Douglas S Tymins

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Debbie L Suman
(Seal)



CONSENT TO RECORDING OF DEED NOTICE

The undersigned, 44th Street & Washington, LLC, an Arizona limited liability company ("New Owner") is the owner of the property known as Lot 3 of Washington Park Corporate Center, Phoenix, Arizona. New Owner purchased the property from SAFG Retirement Services, Inc. ("Previous Owner") pursuant to the Special Warranty Deed dated March 20, 2012, and recorded March 20, 2012 as Instrument No. 2012-0228900, official records of Maricopa County, Arizona. Pursuant to the Land Purchase and Sale Agreement, dated February 17, 2006, as amended, between New Owner and Previous Owner, New Owner hereby consents to and approves the execution and recordation of this Deed Notice.

IN WITNESS OF THE FOREGOING, New Owner has executed this Consent to Recording of Deed Notice as of the 23rd day of June, 2012.

44th STREET & WASHINGTON, LLC, an Arizona
limited liability company

By: 44th Street and Washington Investments LLC, an
Arizona limited liability company
Its: Member

By: [Signature]
Its Manager

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 28th day of June, 2012 by James L. Dawson, the Manager of 44th Street and Washington Investments LLC, an Arizona limited liability company, the Member of 44th Street & Washington, LLC, an Arizona limited liability company, on behalf of said limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Marie M. D'Amato
Notary Public

My commission expires:

6/29/2015

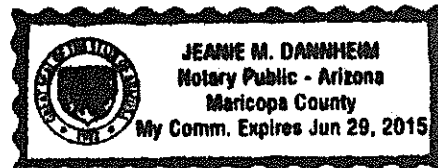


EXHIBIT 1

LEGAL DESCRIPTION

THAT PORTION OF LOT 3, REPLAT OF "PART OF WASHINGTON CORPORATE CENTER", FILED IN BOOK 957 OF MAPS, PAGE 12, RECORDS OF MARICOPA COUNTY, ARIZONA, AND LYING IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CITY OF PHOENIX BRASS CAP IN HAND HOLE MARKING THE NORTH QUARTER SECTION CORNER OF SAID SECTION 7, FROM WHICH A MARICOPA COUNTY BRASS CAP BEARS SOUTH 89°23'54" EAST, 2664.18 FEET;

THENCE SOUTH 45°12'28" EAST, 1048.41' TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510" AND THE POINT OF BEGINNING;

THENCE SOUTH 01°21'15" WEST, 31.95 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

THENCE NORTH 89°19'50" EAST, 16.12 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

THENCE SOUTH 00°40'10" EAST, 9.27 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

THENCE NORTH 90°00'00" EAST, 14.76 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

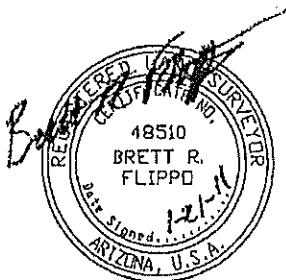
THENCE NORTH 00°40'10" WEST, 48.93 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

THENCE SOUTH 90°00'00" WEST, 14.76 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

THENCE SOUTH 00°40'10" EAST, 7.73 FEET TO A SET 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "LS 48510";

THENCE SOUTH 89°19'50" WEST, 14.99 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,219 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.

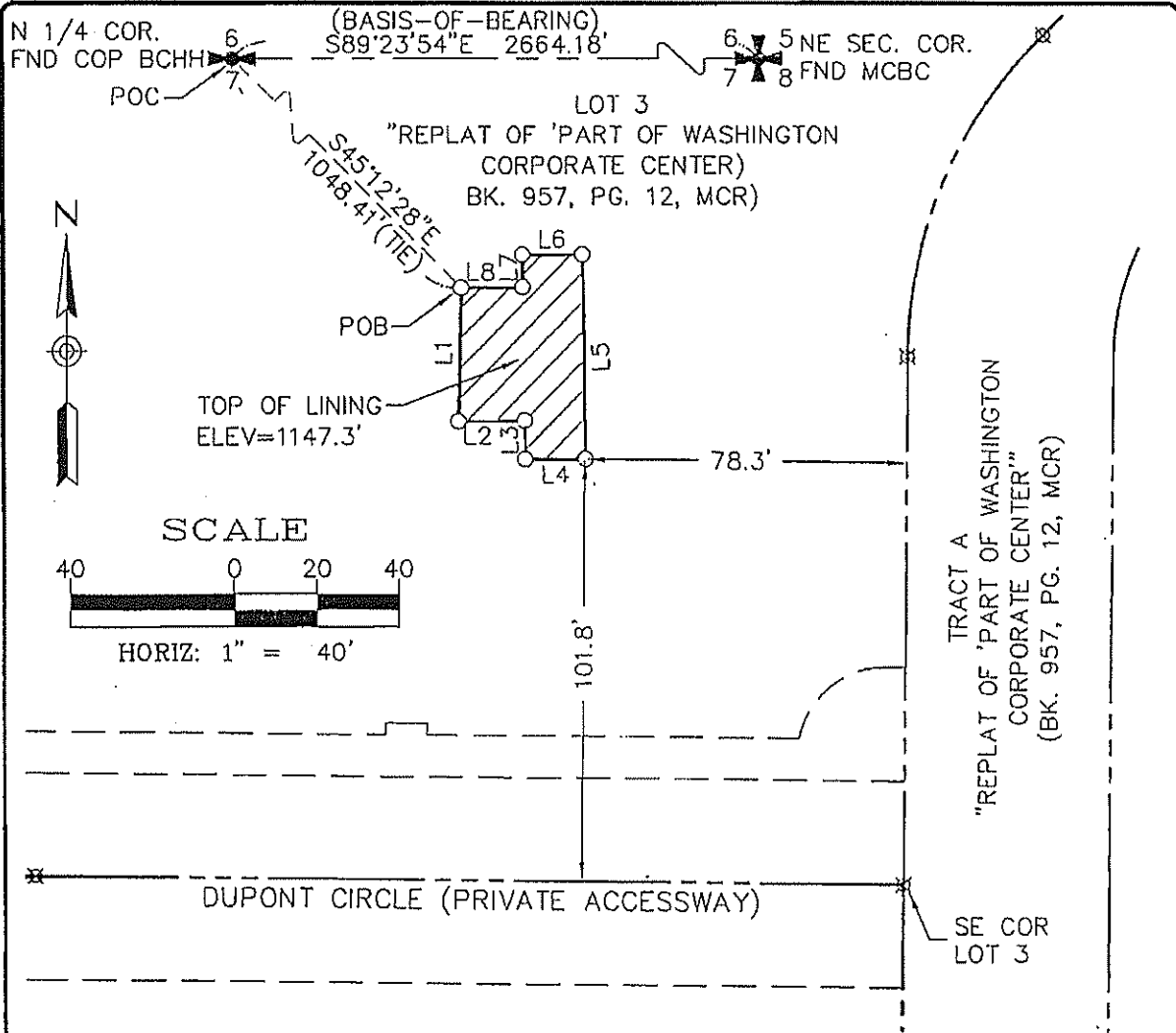


EXPIRES: 9/30/2011

PREPARED BY STRAND ASSOCIATES, INC.
4802 E ELWOOD ST., SUITE 16
PHOENIX, AZ 85040

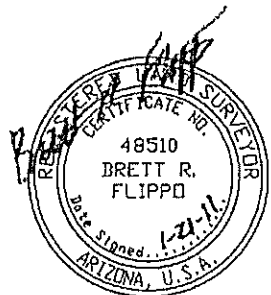
EXHIBIT 2

File: S:\P-H\3500-3599\3527\002\Acad\SURVEYING\3527002 WashgIn Park Remediation Survey.dwg 3527002 WashgIn Park Remediation Survey.dwg Jan 21, 2011 - 3:47pm Time:



NOTES:

1. BASIS OF BEARING: THE BEARING OF SOUTH 89°23'54" EAST OF THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 1 NORTH, RANGE 4 EAST, G&SRM.
2. PROJECT BENCHMARK IS A S.R.V.W.U.A. ENGINEERING DEPT. BRASS CAP ON THE SOUTHEAST CORNER OF IRRIGATION BOX AT THE SOUTHWEST CORNER OF THE INTERSECTION OF 44TH STREET AND VAN BUREN STREET. ELEVATION=1153.33 FEET (NGVD-29, CITY OF PHOENIX DATUM).
3. THIS EXHIBIT IS TO BE USED SOLELY AS A REFERENCE TO THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED.



EXPIRES: 9/30/2011

EXHIBIT MAP

PORTION OF "REPLAT OF 'PART OF WASHINGTON CORPORATE CENTER'"

NE 1/4, SECTION 7, TOWNSHIP 1 NORTH, RANGE 4 EAST, G&SRM
MARICOPA COUNTY, ARIZONA

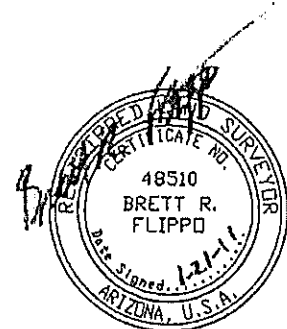


1 OF 2
3527.002

LINE TABLE		
LINE	LENGTH	BEARING
L1	31.95	S01°21'15"W
L2	16.12	N89°19'50"E
L3	9.27	S00°40'10"E
L4	14.76	N90°00'00"E
L5	48.93	N00°40'10"W
L6	14.76	S90°00'00"W
L7	7.73	S00°40'10"E
L8	14.99	S89°19'50"W

LEGEND:

- = PROPERTY LINE
- = SECTION LINE
- = EASEMENT
- = SET 1/2"X18" REBAR W/CAP "LS 48510"
- ⊗ = MONUMENT NOT FOUND OR SET.
- BCHH = BRASS CAP IN HAND HOLE
- COP = CITY OF PHOENIX
- MCR = MARICOPA COUNTY RECORDS
- MCBC = MARICOPA COUNTY BRASS CAP
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- ✚ = FOUND SECTION CORNER



EXPIRES: 9/30/2011

EXHIBIT MAP

PORTION OF "REPLAT OF 'PART OF WASHINGTON CORPORATE CENTER'"

**NE 1/4, SECTION 7, TOWNSHIP 1 NORTH, RANGE 4 EAST, G&SRM
MARICOPA COUNTY, ARIZONA**



2 OF 2

3527.002

EPA LETTERS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94106

Via U.S. Postal Service and Electronic Mail
Certified Mail Receipt No. 7000 0520 0021 6107 8247

September 22, 2008

AIG Retirement Services, Inc.
In care of DST Realty Advisors
Douglas Tymis
Agent for AIG Retirement Services, Inc.
6730 North Scottsdale road
Suite 250
Scottsdale, Arizona 85253

Re: July 22 and September 11, 2008 Amendments to PCB Remediation Notice
Washington Park Corporate Center Lot 3, Trillium Residential, Phoenix, Arizona -
Self Implementing PCB Cleanup Under 40 CFR 761.61(a)

Dear Mr. Tymis:

On November 2, 2007 the U.S. Environmental Protection Agency (USEPA) approved Western Technologies Inc. (WTI) "PCB Remediation Notice, Washington Park Corporate Center, Lot 3, 44th Street and Washington Street, Phoenix, Arizona," WT Job No. 2187JK184, October 12, 2007. The PCB cleanup at Lot 3 is being conducted under Section 761.61(a) (self-implementing PCB cleanup) of the Toxic Substances Control Act (TSCA) regulations. From November 2007 to May 2008, WTI conducted the PCB cleanup on Lot 3. The results of cleanup verification sampling triggered amendments to WTI's October 12, 2007 Notification.

In late July 2008 USEPA received WTI's July 22, 2008 "Amendment to PCB Remediation Notice Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block of East Washington Street, Phoenix, Arizona," (First Notification Amendment). In response to preliminary comments from USEPA, WTI's September 11, 2008 letter clarified the First Notification Amendment and proposed contingencies to be implemented based on the results of the additional soil characterization proposed in this Amendment. Given its scope, USEPA is referring to WTI's September 2008 letter as the Second Notification Amendment.

USEPA is approving the First and Second Notification Amendments with the conditions described in the enclosure to this letter. This conditional approval is only for the TSCA PCB cleanup work described in the First and Second Notification Amendments. USEPA recommends that WTI seek approval from the Arizona Department of Environmental Quality (ADEQ) for the subsurface soil vapor work described in the First Notification Amendment as explained at the end of this letter.

Based on the Notification Amendments, WTI collected composite soil samples to verify achievement of the high occupancy cleanup level of less than or equal to 1 ppm PCBs in Lot 3. The results of cleanup verification samples confirmed that PCB-contaminated soils remain in three (T6-15, T7-15, and T8-15) of several cleanup verification sampling grids at 19 feet below

Douglas Tynms as Agent for AIG
Re: Washington Corporate Center Lot 3
September 22, 2008

ground surface (bgs). The remaining PCB concentration in soils at sampling grids T6-15, T7-15, and T8-15 is 1.2, 4.1, and 6.8 ppm respectively. According to WTI, except for these three sampling grids, the PCB cleanup level for high occupancy was achieved at the remaining grids. Grids T6-15, T7-15, and T8-15 are collectively referred to as the identified contaminated area in the First Notification Amendment and as the Trench Area in the Second Notification Amendment.

We understand that an upscale residential apartment complex is planned for development at Lot 3 of the Washington Corporate Center. Among other features, the residential complex will consist of 4-story residential apartment buildings, courtyard, and pool. A portion of the Trench Area will be located under one of the proposed apartment buildings. Lot 3 is about 6.05 acres and encompasses the 2.75-acre PCB remediated area which includes the Trench Area where PCBs remain above 1 ppm and less than 10 ppm PCBs.

In general, WTI proposes to (1) conduct additional soil characterization in the Trench Area and additional soil removal if PCBs are detected in soils above 1 ppm, (2) install a cap over the Trench Area if PCBs are detected in this area above 1 ppm after completing the soil cleanup (40 CFR 761.61(a)(4)(i)(A) and (a)(7)), and (3) record a notice on the deed to the property (40 CFR 761.61(a)(8)). If a cap is installed in the Trench Area, WTI proposes to also install a physical barrier below the cap and above the PCB-contaminated soils. The barrier is to enhance the cap's effectiveness and prevent disturbance of the soils in the Trench Area during site redevelopment activities.

WTI also proposes to characterize soil in four areas at Lot 3 planned for detention basins to determine if PCBs are present. WTI proposes to install a cap and barrier system at the detention basin areas similar to that at the Trench Area, if PCBs are detected above 1 ppm and remain above this concentration after cleanup.

It is our understanding also that AIG is interested in submitting a risk-based disposal application under 40 CFR 761.61(c) if the PCB concentration in soils is above 10 ppm after AIG has fully complied with the requirements at 40 CFR 761.61(a)(4)(i)(A) and (a)(6). USEPA encourages AIG to take advantage of the flexibility in this section of the regulations. We clarify beforehand, however, that whether 761.61(a) or 761.61(c) is used to manage PCB contamination at or below 10 ppm or above 10 ppm, respectively, a cap and deed notice would still be required. The risk-based application should include a risk based evaluation of the Trench Area and detention basin areas confirming whether potential exposure pathways exist and if they are complete. Although 40 CFR 761.61(c) does not specify a time frame for USEPA's approval of risk-based applications, we try to approve or deny these applications within 30 days after we receive them.

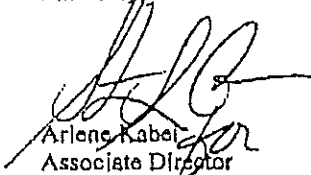
Finally, the First Notification Amendment indicates that volatile organic compounds (VOCs, e.g., tetrachloroethene at 59 ug/kg) and polynuclear aromatic compounds (PAHs, e.g., pyrene, anthracene) were detected in the Trench Area. Given this finding, WTI proposes to conduct a soil vapor assessment (including installation of soil vapor wells) in this area.

Douglas Tymis as Agent for AIG
Re: Washington Corporate Center Lor 3
September 22, 2008

USEPA recommends that WTI seek approval of the "Soil Vapor Screening" section in the First Notification Amendment from ADEQ. We believe the soil vapor screening work proposed the First Notification Amendment is not covered under TSCA and it is better managed under ADEQ's authorized RCRA corrective action program or cleanup voluntary program. USEPA recommends that WTI also seek ADEQ's approval of the sections in the First Notification Amendment titled "Proposed Additional Characterization," "Vertical Assessment at the Identified Contaminated Area," and "Detention Basin Characterizations" with respect to further soil characterization involving the co-contaminants identified in the Trench Area.

We appreciate your consultant (WTI) submitting the subject Notification Amendments and look forward to continue working with WTI on the Washington Corporate Center project. Please call Carmen Santos of my staff at 415.972.3360 with any questions regarding this conditional approval. Thank you.

Sincerely,


Arlene Kabe
Associate Director
Waste Management Division

Enclosure

Cc: David Regonini, Western Technologies, Inc.
Andy Lovelock, ADEQ
Steve Armann, USEPA R9
Carmen Santos, USEPA R9
Annastacia Braye, USEPA R9

Enclosure

Washington Park Corporate Center Lot 3
WTI Amendments to October 12, 2007 PCB Remediation Notice Washington Park

USEPA Conditional Approval
September 22, 2008

Washington Park Corporate Center Lot 3
Trillium Residential
4400 Block East Washington St.
Phoenix, Arizona

A. Background and Introduction

On November 2, 2007 the U.S. Environmental Protection Agency (USEPA) approved Western Technologies Inc. (WTI) "PCB Remediation Notice, Washington Park Corporate Center, Lot 3, 44th Street and Washington Street, Phoenix, Arizona," WT Job No. 2187JK184, October 12, 2007. The cleanup of soils contaminated with polychlorinated biphenyls (PCBs) on Lot 3 is being conducted under Section 761.61(a) (self implementing PCB cleanup) of the Toxic Substances Control Act (TSCA) regulations.

On July 24, 2008 USEPA received WTI's July 22, 2008 "Amendment to PCB Remediation Notice Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block of East Washington Street, Phoenix, Arizona," (First Notification Amendment). On September 12, 2008 we received WTI's September 11, 2008 letter with clarifications and contingencies for the additional soil characterization work described in the First Notification Amendment. Because of its scope, USEPA refers to WTI's letter as the Second Notification Amendment. The September 11, 2008 letter refers to "the amendment," which is the First Notification Amendment.

USEPA is approving the First and Second Notification Amendments with the conditions described in Section B below. This approval is for Lot 3 of the Washington Corporate Center and it is effective on the date of USEPA's transmittal letter.

This approval does not relieve the owner of the property from complying with all other applicable federal, state, and local regulations and permits. Departure from the approval conditions without prior written permission from USEPA may result in the commencement of proceedings to revoke this approval and/or an enforcement action. This approval in no way provides a shield from an enforcement action by EPA, including the imposition of penalties, for violations of this approval or for violations of other applicable TSCA PCB requirements.

WTI has submitted the Notification Amendments on behalf of the current land owner AIG Retirement Services, Inc. (AIG). AIG is selling Lot 3 to another party. The PCB cleanup is being conducted as part of this real estate transaction. A residential development consisting of several residential apartment buildings among is planned for Lot 3.

Based on the First Amendment soil composite samples were collected by WTI to verify if the high occupancy TSCA PCB cleanup level equal to or less than 1 ppm was achieved in Lot 3. PCB contaminated soils remain in sampling grids T6-15, T7-15, and T8-15 (identified contaminated area or Trench Area) at 1.2, 4.1, and 6.8 ppm PCBs, respectively, at 19 feet below ground surface (bgs). The PCB cleanup level for high occupancy was not achieved in the Trench

Area. A portion of this area falls within the footprint of one of the planned residential apartment buildings. According to the First Notification Amendment, a "slab on grade, monolithic post-tensioned concrete slab with a minimum thickness of 8 inches" is proposed for the apartment buildings.

For a high occupancy area, Sections 761.61(a)(4)(i)(A), 761.61(a)(7); and 761.61(a)(8) of the TSCA regulations require a cap be installed and a deed notice be recorded if PCB contaminated soils are left in place at concentrations higher than 1 ppm and less than or equal to 10 ppm.

In general, WTI proposes to (1) conduct additional soil characterization in the Trench Area and additional soil removal if PCBs are detected in soils above 1 ppm, (2) install a cap over the Trench Area if PCBs are detected in this area above 1 ppm after completing the soil cleanup (40 CFR 761.61(a)(4)(i)(A) and (a)(7)), and (3) record a notice on the deed to the property (40 CFR 761.61(a)(8)). If a cap is installed in the Trench Area, WTI proposes to also install a physical barrier below the cap and above the PCB-contaminated soils. The barrier is to enhance the cap's effectiveness and prevent disturbance of the soils in the Trench Area during site redevelopment activities.

WTI also proposes to characterize soil in four areas at Lot 3 planned for detention basins to determine if PCBs are present. WTI proposes to install a cap and barrier system at the detention basin areas similar to that at the Trench Area, if PCBs are detected above 1 ppm and remain above this concentration after cleanup.

The physical barrier mentioned above and that WTI proposes to install in the Trench Area consists of a low-strength-concrete barrier at 40 feet bgs with a minimum thickness of 6 inches. In addition, WTI proposes to cover the west wall of the Trench Area with a metal mesh secured with anchors and faced with shotcrete at a certain depth and above the bottom of the trench. We suggest that physical barriers to be used in addition to the cap (as defined in the regulations) be of materials constructed via processes more energy efficient than those to make concrete.

The owner of Lot 3 needs to begin placing engineered fill on Lot 3 which will enable stable surfaces for a drill rig. Consequently, open excavations (including the Trench Area) within Lot 3 will be filled before the additional soil characterization work is conducted. WTI proposes to remove the fill from the Trench Area and planned detention basin areas if samples from the soil borings to be drilled show PCBs above 1 ppm. Soil removal work will be conducted and a cap / barrier system will not be installed if soil cleanup verification results show PCB levels equal to or less than 1 ppm. If PCBs are detected above 1 ppm and less than or equal to 10 ppm, a cap and barrier system will be installed as part of the self implementing cleanup (761.61(a)). If the PCB levels are found to be above 10 ppm after fully complying with 761.61(a)(4)(i)(A) and (a)(6), WTI proposes to submit a risk-based application for EPA approval.

B. Conditions of Approval – First (July 22, 2008) and Second (September 11, 2008) Notification Amendments

The following comments are conditions of approval and modify the First and Second Notification Amendments. Please implement the Notification Amendments as modified below.

1. **Sequence and Description of the Work, Step 1 - Second Notification Amendment:** USEPA approves Step 1 (Placement of Fill on Lot 3) as modified by installation of a membrane (e.g., HDPE) in the Trench Area. The purpose of the membrane is to temporarily separate the new fill from the bottom surface of the Trench Area excavation until the additional characterization is completed. If this is not possible, please discuss potential impediments with USEPA.

USEPA leaves issues related to the adequacy (physical and chemical characteristics) of the material to be used as fill in Lot 3 to the discretion of the land owner and any state or local agency with jurisdiction on this specific matter. However, if the fill material is to be used to construct the soil cap for the Trench Area such material shall meet the requirements in 40 CFR 761.75(b)(1)(ii) through 761.75(b)(1)(v) and 264.310(a). In addition, the PCB concentration of the material to construct the cap shall be less than 1 ppm PCBs (761.61(a)(7)).

2. **Survey Coordinates for Trench Area (i.e., Contaminated Area) and Four Planned Detention Basin Areas:** The survey of the Trench Area (also referred to as the Identified Contaminated Area in the First Notification Amendment) has been conducted already as shown in the attached figure providing the survey coordinates for this area.

The Trench Area shall be re-surveyed after placing new fill to original grade in Lot 3 using the coordinates in the attached figure to locate this area before conducting the additional soil characterization at about 40 feet bgs. The planned detention basin areas shall be surveyed after placing the new fill on Lot 3 and before characterization of the soils in these areas for PCBs. After completion of cleanup activities, the remediated areas shall be re-surveyed to include up to date survey coordinates in the deed notice. Please also refer to Item 8 below.

3. **Additional Soil Characterization Work:** The additional soil characterization sampling shall be based on collection of discrete samples that closely follows Subpart N requirements in order to benefit from the flexibility of collecting composite samples for cleanup verification under Subpart O.
4. **Sequence and Description of the Work, Step 2 - Second Notification Amendment:** A total of nine (9) soil borings will be drilled in the Trench Area to conduct additional characterization in this area. Six (6) borings shall be drilled at the perimeter and three (3) borings shall be drilled through the center of each of the three grids comprising the Trench Area. The borings shall be drilled to 40 feet bgs at a minimum. Soil borings shall be drilled in the areas planned for detention basins in Lot 3. WTI and USEPA shall agree on the number of borings to be drilled in these areas. Please also refer to Item 3 above.
5. **Sequence and Description of Work, Step and 3 and Contingency Actions for Trench Area and Planned Detention Basin Areas - Second Notification Amendment:** Please also refer to Item 1 above regarding the temporary use of a membrane to keep the new fill material separate from the PCB contaminated soils at the bottom of the Trench Area.

The approved original Notification requires a PCB cleanup level for Lot 3 of less than or equal to 1 ppm PCBs (high occupancy). The following conditions apply if the land owner is unable to meet this cleanup level based on the results of cleanup verification samples.

USEPA approves of a high occupancy PCB cleanup level of greater than 1 ppm and less than or equal to 10 ppm PCBs for the Trench Area and planned detention basin areas if the following conditions are met to USEPA's satisfaction: (1) the land owner reasonably excavated PCB impacted soils to achieve the PCB cleanup level of less than or equal to 1 ppm PCBs; (2) the land owner demonstrates that it implemented actions to fully comply with 40 CFR 761.61(a)(6)(i), (a)(6)(ii)(A) and (a)(6)(ii)(B), (2); and (3) the land owner fully complies with the requirements at 761.61(a)(7), 761.75(b)(1)(ii) through 761.75(b)(1)(v), and 761.61(a)(8).

The concrete barriers described in the First Notification Amendment and referred to in the Second Notification Amendment as concrete caps do not meet the requirements for accessibility to conduct the cap maintenance under 40 CFR 761.61(a)(7).

6. **Cleanup Levels for High Occupancy:** Please refer to Item 5 above.
7. **Cap for Trench Area (Grids T6-15, T7-15, and T8-15):** The barrier concept that WTI proposes to implement at the Trench area (i.e., referred to previously as the identified contaminated area) is a great idea to enhance the effectiveness of a soil cap. However, the cap requirements at 40 CFR 761.61(a) still shall be fulfilled. The regulations at 761.61(a)(4)(i)(A) and 761.61(a)(7) allow the use of a compacted soil cap with a minimum thickness of 10 inches that meets the requirements of 40 CFR 264.310(a) (cap requirements for landfills) and 761.75(b)(1)(ii) through 761.75(b)(1)(v). Contaminated soils remaining in the Trench Area after cleanup of this area in accordance with the Notification and related Amendments shall be covered with a cap that meets the requirements in the above cited regulations.

USEPA understands that a portion of the Trench Area will not be covered by the concrete slab of one of the apartment buildings planned for construction in Lot 3 (scenario 1). Another portion of the same Trench Area will be located below one of the building's concrete slab (scenario 2). A cap (not what is proposed in the Second Notification Amendment as a cap) meeting the requirements of 761.61(a)(7) shall be installed over the entire Trench Area. If a compacted soil cap is chosen, the land owner needs to demonstrate the selected engineered fill meets the requirements of 761.61(b)(1)(ii) through (b)(1)(v) to confirm the compacted soil cap will also meet these requirements.

For scenario 1, this initial cap shall be the final cap. For scenario 2, the initial cap (i.e., that cap for scenario 1) is considered a temporary cap and the apartment building slab shall be the final cap for the portion of the Trench Area that will be located below the apartment building. The land owner shall confirm in writing with copies of relevant sections of the final design for the proposed apartment building that the building's concrete slab covering a certain portion of the Trench Area meet the cited regulatory requirements for a cap. The caps in scenarios 1 and 2 shall be maintained in the future as required in 40 CFR 264.310(a) and 761.61(a)(7). These regulations do not waive the cap

maintenance requirements based on installation of a cap thicker than the minimum thickness specified in the TSCA regulations.

8. **Deed Notice to be Recorded:** For a high occupancy area, Sections 761.61(a)(4)(i)(A), and 761.61(a)(8) of the TSCA regulations require a deed notice be recorded if PCB contaminated soils are left in place at concentrations higher than 1 ppm and less than or equal to 10 ppm PCBs.

In addition to what is already proposed in the First and Second Notification Amendments, the deed notice shall include the procedures and schedule to maintain any cap on Lot 3 (i.e., Trench Area and any that may be necessary in the detention areas). As to the amount of maintenance necessary for the cap(s), please refer to 40 CFR 264.310(a) which establish that a cap must function with minimum maintenance. A cap constructed in accordance with Section 761.61(a)(7) and combined with a physical barrier installed above the surface of remaining PCB contaminated soils (at Trench Area and, if necessary, at the detention basin areas) may meet the requirement of a cap that functions with "minimum maintenance" provided the requirements at 761.61(b)(1)(ii) through (b)(1)(v) are met.

The surveys for all locations at Lot 3 where a cap may be required (e.g., Trench Area, detention basin areas) shall be incorporated into the deed notice as part of the descriptions of locations within Lot 3 where PCB contaminated soils remain above the cleanup level of less than or equal to 1 ppm PCBs. The surveys to be included in the deed shall reflect the final remediated condition of the Trench Area and of any detention basin area (if PCB cleanup is necessary).

9. **Additional Contingencies:** Ground water may be encountered during drilling of soil borings and/or additional soil excavations. WTI may install wells if water is encountered to determine if PCBs have impacted ground water. This issue, however, would need to be addressed with ADEQ and other applicable state and local agencies.
10. **Split Samples:** USEPA reserves the right to obtain split or duplicate samples upon request.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105

Via U.S. Postal Service and Electronic Mail
Certified Mail Receipt No. 7000 0520 0021 6107 8353

July 14, 2009

AIG Retirement Services, Inc.
In care of DST Realty Advisors
Douglas Tymis
Agent for AIG Retirement Services, Inc.
6730 North Scottsdale Road
Suite 250
Scottsdale, Arizona 85253

Re: "PCB Site Characterization Report Trench and Retention Basin Areas Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block East Washington St. Phoenix, Arizona Job No. 2188JF154" – Self Implementing PCB Cleanup Under 40 CFR 761.61(a)

Dear Mr. Tymis:

Thank you for submitting the *"PCB Site Characterization Report Trench and Retention Basin Areas Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block East Washington St. Phoenix, Arizona Job No. 2188JF154"* (Final Report) dated March 25, 2009 and prepared by Western Technologies Inc. (WTI) for AIG, Inc. (AIG). The characterization and cleanup of polychlorinated biphenyls in Lot 3 was conducted under the Toxic Substances Control Act requirements in 40 CFR 761.61(a) (self-implementing cleanup).

The purpose of this letter is to provide clarification regarding the cap for the Trench Area (including an area between the Trench Area and proposed southeast basin) and deed notice required for the property. In addition this letter requests a schedule for cap construction, preparation of the deed notice for the cap, and cap maintenance plan. The PCB cleanup in Lot 3 is not considered complete until the cap is completed and a cap maintenance / repair plan is submitted. The PCB cleanup in Lot 3 will be considered complete upon receipt of a letter report documenting completion of cap construction.

The Final Report provides data summaries documenting the following findings and results of soil characterization in the Trench Area (Trench):

- a) Based on data collected by WTI, soils investigated for PCB contamination within the areas of future retention basins in Lot 3 are not impacted by PCBs.
- b) The results of additional soil characterization for PCBs conducted within the Trench after soil cleanup and cleanup verification sampling had been conducted in 2008 confirmed that PCBs remain in the Trench at concentrations greater than the 1 mg/Kg (1 ppm) PCB-cleanup level for high occupancy. However, the PCB concentrations are lower than 10 ppm.

- c) The finding during additional characterization of the Trench of PCB-contaminated soils in an area (between the Trench and the proposed southeast basin) that is adjacent to and west of the Trench. Soils in this area (B-14 and B-15) are contaminated with PCBs at concentrations greater than 1 ppm and lower than 10 ppm.

WTI proposes to install one cap to cover PCB-contaminated soils within the Trench in addition to soils outside and west of the Trench. Within the Trench, PCBs remain at 2.9 (B-11), 1.6 (B-11), 1.2 (T6-15), 4.1 (T7-15), and 6.8 mg/Kg (T8-15); and west of the Trench, PCBs remain at 1.4 (B-14) and 1.3 mg/Kg (B-15).¹ WTI also proposes to prepare and record a deed notice for Lot 3. Clarifications on these items follow.

Clarifications on Capping of PCB-Contaminated Soils in Lot 3

The Final Report states under "Recommendations" (page 8 of the report) that "[c]onsistent with our first PCB remediation notice, the proposed capping system will involve three stages. . ."

However, the cap should be constructed in accordance with the conditions of approval in the enclosed USEPA September 22, 2008 letter approving WTI's First and Second Notification Amendments. In this letter, USEPA approved a PCB cleanup level for Lot 3 (residential land use) equal to 1 mg/Kg (ppm) and lower than or equal to 10 ppm (40 CFR 761.61(a)(4)(i)(A), 761.61(a)(7), and 761.61(a)(8)) provided the owner meets the conditions of approval to USEPA's satisfaction. Specifically to the cap and deed notice, the owner of the property must meet Approval Conditions 5 through 8 to USEPA's satisfaction. Please also note the cap has to be maintained in perpetuity.

Clarifications on Deed Notice for Lot 3

As indicated in our September 22, 2008 letter, the deed notice must meet the requirements in 40 CFR 761.61(a)(8) in addition to the September 22, 2008 conditions of approval.

Schedule for Construction of Cap and Preparation and Recordation of Deed Notice

Please submit a schedule indicating time frames to complete cap construction and related maintenance / repair plan, prepare and submit for USEPA review a deed notice for the cap, and record the notice.

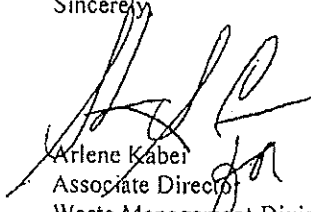
Finally, USEPA's September 22, 2008 approval is for characterization and cleanup of PCBs. USEPA's approval does not involve other contaminants and soil vapor investigations in Lot 3 which we believe are now being addressed through the Arizona Department of Environmental Quality.

¹ PCBs remain in soils at 19 feet below ground surface within the Trench Area in sampling grids T6-15, T7-15, and T8-15 at 1.2, 4.1, and 6.8 mg/Kg, respectively. PCBs remain within the Trench Area at 2.9 mg/Kg (B-11, 25 feet below existing surface grade [ft. begs]) and 1.6 mg/Kg (B-11, 31 to 31.5 ft begs). PCBs remain in soils in an area outside of and west of the Trench Area at 1.4 mg/Kg (B-14, 26 to 26.5 ft begs), and 1.3 mg/Kg (B-15, 36 to 36.5 ft begs).

USEPA Clarifications on Cap and Deed Notice
Washington Park Lot 3 TSCA PCB Cleanup
July 14, 2009

We appreciate WTI submitting the Final Report on AIG's behalf and look forward to continue working with WTI on the Washington Corporate Center project. Please call Carmen Santos of my staff at 415.972.3360 with any questions regarding this letter and the requested schedule. Thank you.

Sincerely,



Arlene Kabei
Associate Director
Waste Management Division

Enclosure

Cc: David Regonini, Western Technologies, Inc.
Andy Leverock, ADEQ
Steve Armann, USEPA R9
Carmen Santos, USEPA R9



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Via U.S. Postal Service and Electronic Mail
Certified Mail Receipt No. 7000 0520 0021 6107 8339

July 2, 2010

AIG Retirement Services, Inc.
In care of DST Realty Advisors
Douglas Tymis
Agent for AIG Retirement Services, Inc.
6730 North Scottsdale Road
Suite 250
Scottsdale, Arizona 85253

Re: Western Technologies Inc. June 14, 2010 Proposed Schedule for Cap Construction,
Trench Area, Washington Park Corporate Center Lot 3, Trillium Residential 4400
Block East Washington St. Phoenix, Arizona – Self Implementing PCB Cleanup
Under 40 CFR 761.61(a)

Dear Mr. Tymis:

Thank you for the June 14, 2010 letter and schedule that Western Technologies Inc. (WTI) submitted on your behalf responding to the U.S. Environmental Protection Agency Region 9 (USEPA) letter dated July 14, 2009. USEPA's letter requested that AIG submit a schedule to (1) construct the cap for the Trench Area and an area west of the Trench, (2) prepare a cap maintenance plan, and (3) prepare and submit a draft deed notice for USEPA review. USEPA is approving AIG's proposed June 14, 2010 schedule under the Toxic Substances Control Act (TSCA) regulations in 40 CFR 761.61(a) (self implementing cleanups).

USEPA hereby approves with the conditions established below the design proposed in the schedule for construction of the earthen cap. On June 25, 2010 WTI clarified the cap described in the schedule is a temporary earthen cap and not the final cap. In this approval the term "temporary earthen cap" means the compacted earthen cap plus the protective membrane and compacted soil layer atop the membrane. In this approval, the term "cap" means the compacted earthen cap without the two protective layers.

USEPA is approving the design and construction of the temporary earthen cap under the TSCA regulations in 40 CFR 761.61(c) (risk-based disposal approvals) and 40 CFR 761.61(a)(7), respectively. The brief construction details for the temporary earthen cap provided in WTI's schedule is not clear regarding the accessibility of the cap (below the two protective layers, membrane and compacted soil) for inspection and repairs.

As clarified by WTI, the temporary earthen cap includes two protective layers to prevent desiccation of the cap due to arid conditions in Phoenix. The protective layers include: (1) a protective membrane (e.g., 6-mil polyethylene liner) that will be installed atop the compacted earthen cap and (2) a layer of compacted soil that will cover this protective membrane.

WTI conducted site characterization and PCB cleanup at the Washington Park Corporate Center Lot 3 site (including the Trench Area) in accordance with the TSCA requirements in 40 CFR 761.61(a) (self implementing cleanups). Within the Trench, PCBs remain at 2.9 (B-11), 1.6 (B-11), 1.2 (T6-15), 4.1 (T7-15), and 6.8 mg/Kg (T8-15); and immediately west of the Trench, PCBs remain at 1.4 (B-14) and 1.3 mg/Kg (B-15)¹.

This conditional approval does not relieve the owner of the property from complying with all other applicable federal, state, and local regulations and permits. Departure from the approval conditions without prior written permission from USEPA may result in the commencement of proceedings to revoke this approval, and / or an enforcement action. Nothing in this approval bars USEPA from imposing penalties for violations of this approval or for violations of other applicable TSCA PCB requirements or for activities not covered in this approval.

USEPA Conditions of Approval for Cap Construction and Design

USEPA's conditions of approval modify the construction schedule, design and details for construction of the temporary earthen cap.

- a. The temporary earthen cap must encompass the Trench and the area outside of and west of the Trench. See USEPA's July 14, 2009 letter.
- b. The soils to construct the cap from 19 feet below ground surface (bgs) to 5 feet bgs and the protective soil layer atop the membrane must meet the requirements in 40 CFR 761.61(a)(7). Construction of the temporary earthen cap must meet the requirements in 40 CFR 264.310(a).
- c. AIG will inspect the temporary earthen cap (including the cap, HDPE membrane, and soil protective layer) and conduct maintenance and repairs in accordance with a schedule to be included in the temporary earthen cap maintenance plan that AIG will submit for USEPA approval. This schedule must reflect the requirement in 40

¹ PCBs remain in soils at 19 feet below ground surface within the Trench Area in sampling grids T6-15, T7-15, and T8-15 at 1.2, 4.1, and 6.8 mg/Kg, respectively. PCBs remain within the Trench Area at 2.9 mg/Kg (B-11, 25 feet below existing surface grade [ft. bgs]) and 1.6 mg/Kg (B-11, 31 to 31.5 ft bgs)). PCBs remain in soils in an area outside of and west of the Trench Area at 1.4 mg/Kg (B-14, 26 to 26.5 ft bgs), and 1.3 mg/Kg (B-15, 36 to 36.5 ft bgs).

CFR 761.61(a)(7) for repairs to be completed within 72 hours after discovering a problem with the temporary earthen cap.

- d. According to WTI, the site has not been graded to final elevation and when such grading occurs, the temporary earthen cap may be up to two (2) feet below the post-grading ground elevation. Therefore, prior to grading, the location of the temporary earthen cap must be surveyed accurately and such survey coordinates included in the deed notice to the property.

During building construction, a portion of or the entire temporary cap will be covered by the building's concrete slab. Disturbance of the temporary earthen cap or a portion thereof may be necessary to facilitate construction of the concrete slab. Such slab is planned to have a minimum thickness of six (6) inches and qualifies as the final cap for the entire area or a portion thereof covered by the temporary earthen cap. AIG must meet the requirements in 40 CFR 761.61(a)(7) for a concrete cap when constructing the final cap.

In context to the future redevelopment, if a portion of the temporary earthen cap is used as a landscape area (e.g., interior garden), that portion of the earthen cap (including membrane and top compacted soil protective layer) will not be disturbed and will become the final earthen cap. See Condition 7 in USEPA's September 22, 2008 conditional approval letter.

- e. The final earthen cap and final concrete/earthen hybrid cap must be maintained in perpetuity as required in 40 CFR 761.61(a)(8) and USEPA's July 14, 2009 letter to AIG.
- f. The deed notice must include a brief description of the final cap design and construction details as well as the maintenance plan for the temporary earthen cap, final earthen cap, and / or final concrete/earthen hybrid cap. Among other information, the maintenance plan must include a schedule for routine inspections, maintenance, and repair of the temporary and final caps.
- g. The PCB cleanup in Lot 3 is not considered complete until construction of the final earthen cap and / or final concrete/earthen hybrid cap are completed, a cap maintenance plan (including inspections and repairs) is submitted to USEPA for approval, and a PCB cleanup completion report is submitted to USEPA. The PCB cleanup in Lot 3 will be considered complete upon receipt of a PCB cleanup report for Lot 3 that documents completion of the final cap (earthen cap and / or concrete/earthen hybrid cap). The cleanup report must meet the requirements in 40 CFR 761.61(a)(9) and be submitted within 30 days after completing construction of the final caps.


USEPA Approval of Cap Construction
Washington Park Lot 3 TSCA PCB Cleanup
July 2, 2010

Finally we take this opportunity to clarify that under Conditions 7 and 8 in USEPA's September 22, 2008 approval letter, the reference to "761.61(b)(1)(ii) through (b)(1)(v)" is incorrect and should be "761.75(b)(1)(ii) through (b)(1)(v)."

We appreciate WTI submitting the schedule for cap construction and submission of a draft deed notice for review (including the cap maintenance plan) and brief design details for cap construction.

We look forward to continue working with WTI on the Washington Corporate Center project. Please call Carmen Santos of my staff at 415.972.3360 with any questions regarding this letter. Thank you.

Sincerely,


Arlene Kabeil
Associate Director
Waste Management Division

Cc: David Regonini, Western Technologies, Inc.
Humberto Preciado, Western Technologies, Inc.
Ivan Lieben, USEPA R9
Steve Armann, USEPA R9
Carmen Santos, USEPA R9



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Via U.S. Postal Service and Electronic Mail

September 15, 2011

Douglas Tymins
Executive Vice President
AIG Retirement Services
2800 N. Central Ave. Suite 2100
Phoenix, Arizona 85004

Re: Polychlorinated Biphenyls (PCBs), Toxic Substances Control Act - Western Technologies Inc. February 17, 2011 Cap Construction Completion Report for Trench Area and Draft Deed Notice - Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block East Washington St. Phoenix, Arizona – Self Implementing PCB Cleanup Under 40 CFR 761.61(a)

Dear Mr. Tymins:

The U.S. Environmental Protection Agency Region 9 (USEPA) has reviewed Western Technologies, Inc.'s (WTI's) February 17, 2011 letter transmitting the construction completion report for the earthen cap constructed to cover soil contaminated with polychlorinated biphenyls (PCBs) and that remain in the Trench Area¹. A Draft Deed Notice (DDN) for the property was also submitted. The DDN refers to the Trench Area as the Excavation Sensitive Area (ESA). Section F (Engineering Control) of the DDN describes the maintenance and repair plan for the cap covering the ESA. Washington Park Corporate Center Lot 3 will be redeveloped.

This letter memorializes our request for a revised draft DDN. In addition, this letter modifies Condition d in USEPA's July 2, 2010 letter conditionally approving the temporary earthen cap for the Trench Area (i.e., ESA) under the self implementing and risk-based PCB cleanup requirements in 40 CFR 761.61(a) and (c), respectively, of the Toxic Substances Control Act (TSCA) regulations.

On September 13, 2011, we discussed detailed comments on the technical (not legal) elements of the DDN with WTI and informally requested a revised DDN. Section F of the DDN anticipates the earthen cap will be disturbed in landscape areas that may be designated in the future if the earthen cap or a portion thereof is located within those areas. The third paragraph in Condition d. in USEPA's July 2, 2010 letter states that:

¹ PCBs remain in soils at 19 feet below ground surface within the Trench Area in sampling grids T6-15, T7-15, and T8-15 at 1.2, 4.1, and 6.8 mg/Kg, respectively. PCBs remain within the Trench Area at 2.9 mg/Kg (B-11, 25 feet below existing surface grade [ft. begs]) and 1.6 mg/Kg (B-11, 31 to 31.5 ft begs). PCBs remain in soils in an area outside of and west of the Trench Area at 1.4 mg/Kg (B-14, 26 to 26.5 ft begs), and 1.3 mg/Kg (B-15, 36 to 36.5 ft begs). The Trench Area also covers this area.

"... In context to the future redevelopment, if a portion of the temporary earthen cap is used as a landscape area (e.g., interior garden), that portion of the earthen cap (including membrane and top compacted soil protective layer) will not be disturbed and will become the final earthen cap. See Condition 7 in USEPA's September 22, 2008 conditional approval letter."

USEPA is modifying the above quoted third paragraph in Condition d to allow disturbance of the earthen cap in landscape areas provided the conditions established below are met.

1. Planting in landscape areas of the future redevelopment may necessitate that portions of the earthen cap be disturbed to facilitate placement of soils suitable for planting atop the earthen cap. Disturbed soils in the earthen cap will be re-compacted before a planting soil layer is added atop the landscape area.
2. A minimum of 24 inches of earthen cap material (that is below ground surface and above the soil backfill covering the PCB contaminated soils) must not be disturbed and such cap thickness must be maintained all the time.

We look forward to continue working with WTI on the Washington Corporate Center project. Please call Carmen Santos of my staff at 415.972.3360 with any questions regarding this letter. Thank you.

Sincerely,



Arlene Kabei
Associate Director
Waste Management Division

Cc: David Regonini, Western Technologies, Inc.
Humberto Preciado, Western Technologies, Inc.
Ivan Lieben, USEPA R9
Steve Armann, USEPA R9
Carmen Santos, USEPA R9



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Via Electronic and US Postal Service Mail

December 14, 2011

Mr. Douglas Tymins
Executive Vice President
AIG Retirement Services
2800 North Central Avenue
Suite 2100
Phoenix, Arizona 85004

Re: Washington Park Corporate Center, Lot 3, 4400 Block East Washington Street, Phoenix, Arizona Draft Deed Notice for the Trench Area

Dear Mr. Tymins:

We appreciate your consultant, Humberto Preciado (Western Technologies, Inc. [WTI]), submitting for our review the attached revised draft deed notice (DDN) in response to our September 15, 2011 letter.¹ The attached DDN is for the cap covering soils contaminated with polychlorinated biphenyls (PCBs) in the Trench Area located within Lot 3 of the Washington Park Corporate Center. We understand that redevelopment of Lot 3 includes an upscale residential complex consisting of 4-story residential apartment buildings, courtyard, and pool. The U.S. Environmental Protection Agency Region 9 (USEPA) concurs with the attached DDN as modified therein by USEPA.

On behalf of AIG, WTI conducted a self-implementing cleanup of polychlorinated biphenyls (PCBs) in Lot 3 in accordance with the Toxic Substances Control Act (TSCA) regulations for PCBs in 40 CFR 761.61(a).² PCBs remain in the Trench Area above 1 mg/kg and below 10 mg/kg. The Trench Area (including an area outside of and west of the Trench) is capped and the USEPA approved construction of the cap under 40 CFR 761.61(a) and 761.61(c) (risk-based PCB disposal approval).³⁴

¹ USEPA Region 9's September 15, 2011 letter regarding "Polychlorinated Biphenyls (PCBs), Toxic Substances control Act - Western Technologies, Inc. February 17, 2011 Cap Construction Completion Report for Trench Area and Draft Deed Notice - Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block East Washington St., Phoenix, Arizona - Self Implementing Cleanup Under 40 CFR 761.61(a)" and requesting a revised draft deed notice.

² USEPA Region 9's September 22, 2008 letter approving amendments to the October 12, 2007 "PCB Remediation Notice, Washington Park Corporate Center Lot 3, 44th Street and Washington Street, Phoenix Arizona," WT Job No. 2187JK184.

³ USEPA Region 9's July 14, 2009 letter clarifying cap construction and deed notice requirements in reference to WTI's "PCB Site Characterization Report Trench and Retention Basin Areas Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block East Washington St. Phoenix, Arizona Job No.2188JF154" (Final Report) dated March 25, 2009.

Mr. Douglas Tymins
Re: Washington Park Corporate Center
Revised Draft Deed Notice
Date: December 14, 2011

In accordance with 40 CFR 761.61(a)(8), a deed notice must be recorded consistent with state law when a cap is used at a site to cover PCB impacted soils. On November 11, 2011, USEPA received the DDN for the Trench Area (also referred to as the Excavation Sensitive Area in the DDN) via electronic mail (e-mail). We have reviewed the DDN and our changes and additions are annotated in underlined boldface blue font and struck out red and black font. We concur with the revisions made by WTI (shown in red boldface font) on the previous draft version of the deed notice and reflected in the attached DDN. We concur with the attached DDN as modified therein by USEPA.

The final DN must accurately reflect all the modifications annotated in the attached draft version and include by reference and as attachments USEPA's letters dated September 22, 2008, July 14, 2009, July 2, 2010, and September 15, 2011. These letters are described in Footnotes 1 through 4 to this letter. The final DN must be recorded in accordance with the applicable laws of the state of Arizona and consistent with the requirements in 40 CFR 761.61(a)(8). Within 14 days after recordation of the final DN, please submit to USEPA (1) a written certification signed by the owner of the property and attesting that he or she has recorded the required final DN and (2) a courtesy copy of the recorded DN.

We appreciate the PCB cleanup work conducted by WTI on behalf of AIG Retirement Services. If in the future PCBs are found in Lot 3 or other portions of the Washington Park Corporate Center USEPA reserves its rights under TSCA to require cleanup of any newly found PCB contamination in accordance with the TSCA PCB regulations in 40 CFR 761.61.

Please call Carmen D. Santos at 415.972.3360 if you have any questions concerning this letter.

Sincerely,


Arlene Kabei
Associate Director
Waste Management Division

Enclosure

⁴ USEPA Region 9's July 2, 2010 letter approving WTI's "Proposed Schedule for Cap Construction, Trench Area, Washington Park Corporate Center Lot 3, Trillium Residential 4400 Block East Washington St. Phoenix, Arizona" dated June 14, 2010.

Mr. Douglas Tymins
Re: Washington Park Corporate Center
Revised Draft Deed Notice
Date: December 14, 2011

Cc: Dave Regonini (WTT)
Humberto Preciado (WTT)
Steve Armann (USEPA R9)
Carmen D. Santos (USEPA R9)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Via Electronic and US Postal Service Mail

December 19, 2011

Mr. Douglas Tymins
Executive Vice President
AIG Retirement Services
2800 North Central Avenue
Suite 2100
Phoenix, Arizona 85004

Re: Washington Park Corporate Center, Lot 3, 4400 Block East Washington Street, Phoenix, Arizona Draft Deed Notice (DDN) for the Trench Area – Additional USEPA Modifications to Revised DDN

Dear Mr. Tymins:

The U.S. Environmental Protection Agency Region 9's (USEPA's) December 14, 2011 letter transmitted a copy of the Draft Deed Notice (DDN) as modified by USEPA. The DDN is for the cap that covers soils containing polychlorinated biphenyls (PCBs) in Lot 3. This letter responds to the enclosed electronic mail (e-mail) message from your consultant, David Regonini (Western Technologies, Inc. [WTI]) dated December 19, 2011 (received at 9:54 AM), requesting clarification on one of several changes that USEPA made to the DDN. Attached is the DDN as revised by USEPA on December 19, 2011 in response to WTI's e-mail message. In addition, USEPA made two additional revisions that were necessary.

WTI's e-mail message requested that USEPA clarify the sentence: "The Trench Area (or Excavation Sensitive Area) is classified as a low occupancy area as defined in 40 CFR 761.3 and 761.61(a)." USEPA had added this sentence to Section C (Legal Description) of the DDN. USEPA has deleted the sentence in the attached DDN based on our reinterpretation of the Toxic Substances Control Act (TSCA) PCB regulations in 40 CFR 761.61(a)(8)(i) and (a)(8)(i)(A)(1) in context to caps required in high occupancy areas (e.g., residential area)¹. The Trench Area continues to be a high occupancy area and the cap covers site soils containing PCBs above 1 part per million (ppm or milligram/kilogram [mg/kg]) and below 10 mg/kg.

In addition, we made the following necessary revisions. The last sentence in the last paragraph of Section F.2.1 has been modified to read: "The Cap covers and prevents access to soils containing PCBs above 1 mg/kg and below 10 mg/kg." This modification was made because the original sentence referred

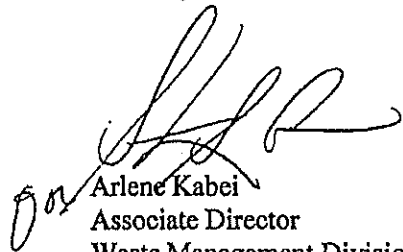
¹ High occupancy areas are defined in 40 CFR 761.3.

Mr. Douglas Tymins
Re: Washington Park Corporate Center
Revised Draft Deed Notice, Additional Modifications
Date: December 19, 2011

to "PCB-contaminated soils" and under the TSCA regulations in 40 CFR 761.3 "PCB-contaminated" refers to non-liquid materials containing PCBs at concentrations above or equal to 50 ppm and below 500 ppm. In the second paragraph under Section F.2.3, we changed "If a footing becomes part of or the final CAP. . ." to "If a footing becomes part of the final CAP or the final CAP itself. . ." USEPA made this change for clarity.

USEPA appreciates WTI requesting clarification on the revisions that USEPA made to the DDN on December 14, 2011. We hope the changes reflected in the attached DDN are responsive to WTI's e-mail message. Please call Carmen D. Santos at 41.972.3360 if you have any questions concerning this letter and the attached DDN further modified by USEPA.

Sincerely,



Arlene Kabei
Associate Director
Waste Management Division

Enclosures (2)

cc: Dave Regonini (WTI)
Humberto Preciado (WTI)
Steve Armann (USEPA R9)
Carmen D. Santos (USEPA R9)



David Regonini

to:

Carmen Santos

12/19/2011 09:54 AM

Cc:

"Tymins, Doug", Humberto Preciado

Hide Details

From: David Regonini <david.r@wt-us.com>

To: Carmen Santos/R9/USEPA/US@EPA

Cc: "Tymins, Doug" <dtymins@sunamerica.com>, Humberto Preciado <h.preciado@wt-us.com>

Carmen,

Specifically referring to the added line under Section C of the deed notice which states, "The Trench Area (or Excavation Sensitive Area) is classified as a low occupancy area as defined in 40 CFR 761.3 and 761.61(a)".

We understood the process of capping the area and filing the deed notice allowed that area to remain classified as a "high occupancy area", pursuant to 40 CFR 761.61(a)(4)(i)(A), which states "High occupancy areas where bulk PCB remediation waste remains at concentrations >1 ppm and less than or equal to 10 ppm shall be covered by a cap meeting the requirements of paragraphs (a)(7) and (a)(8).

Wasn't that the whole purpose of the further characterization, cap construction and deed notice? Otherwise, the clean-up level for low occupancy areas is less than or equal to 25 ppm, which was easily achieved.

Please advise on the meaning of the added statement. Specifically, does that exclude the planned residential development that you specifically reference in your letter? We need EPA to clarify this statement.

David Regonini, REA
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